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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

In re A.C., a Person Coming
Under the Juvenile Court Law.

B304931

THE PEOPLE,

(Los Angeles County
Super. Ct. No. FJ54619)

Plaintiff and Respondent,

v.

A.C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Benjamin R. Campos, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed as modified.

Steven A. Torres, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Susan Sullivan Pithey, Assistant Attorney General, Paul R. Roadarmel, Jr., and Michael Katz, Deputy Attorneys General, for Plaintiff and Respondent.

* * * * *

The minor A.C. admitted one count of attempted murder, as well as gang and firearm allegations (Pen. Code, §§ 187, 664, 186.22, subd. (b), 12022.53, subds. (b), (c), (d)), and the juvenile court found him to be a person described by Welfare and Institutions Code section 602. He appeals the dispositional order committing him to the Division of Juvenile Justice (DJJ), arguing the juvenile court abused its discretion because the record does not contain substantial evidence he would benefit from commitment to the DJJ, or that less restrictive alternatives would be ineffective. He also argues the juvenile court erred when it imposed conditions of probation after committing him to the DJJ. We strike the probation conditions but otherwise affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A.C. is currently 17 years old, and has a juvenile criminal history starting at the age of 13. In 2016, he possessed marijuana on school grounds. The case was handled informally, and A.C. was referred to the Los Angeles County Probation Department New Directions program for services.

In 2017, A.C. was declared a ward after the juvenile court sustained allegations of vandalism (Pen. Code, § 594, subd. (a)) and possession of an aerosol can (§ 594.1, subd. (e)(1)). He was initially placed in a community detention program, but had problems with truancy, failed to follow household rules, and would come and go as he pleased. A.C. went AWOL in March 2019, and was placed in a camp program. He was released from his camp placement in August 2019, and returned to his father's home.

Over the course of his prior delinquency, A.C. received extensive services, including wraparound services, counseling, gang supervision, and family preservation services.

On September 19, 2019, A.C. was arrested after he shot a rival gang member four times. He was detained in juvenile hall. A

Welfare and Institutions Code section 602 petition was filed on September 23, 2019, alleging A.C. had committed attempted murder, the crime was committed for the benefit of a gang, and A.C. had personally used a firearm causing great bodily injury. (Pen. Code, §§ 187, 664, 186.22, subd. (b), 12022.53, subds. (b), (c), (d).) A.C. admitted the allegations, and they were found to be true by the juvenile court.

A.C. admitted to being a member of the Laguna Park Vikings gang, and to using alcohol and drugs. He has prominent gang tattoos across his eyebrows, on his neck, and on his knuckles. The probation officer's report noted that A.C. had received extensive services since 2016, but was heavily entrenched in his gang, continued to use drugs, and did not appear to benefit from the extensive services he had received.

Moreover, A.C. engaged in bad behavior in juvenile hall. He did not follow orders, was disrespectful, repeatedly engaged in violent horseplay, possessed contraband, fought with another ward, and threw water on an officer.

Due to the callousness and severity of A.C.'s crime, the probation officer believed A.C. posed a serious threat to the community. She recommended that A.C. be committed to the DJJ, saying "there, he might mature, take responsibility for his actions, attain the appropriate counseling needed, and earn an educational diploma."

A.C. received a mental health evaluation while in juvenile hall. Dr. Robert Rome opined that A.C. suffered from disruptive mood destabilization disorder, substance use disorders, and a learning disability. His report noted that A.C. had been shot four times in a drive-by gang shooting in 2017. Dr. Rome believed A.C. was having difficulty separating himself from gang activity, and noted that A.C. had large and prominent gang tattoos. He believed

A.C. would benefit from “placement in an appropriate clinically-based environment where he can get appropriate services, including individual and group counseling, family counseling, a program of gang diversion, a program of anger management, and a program of substance abuse rehabilitation. He would respond more positively to such a placement, rather than to placement in DJJ with only some of these services.”

An assessment completed by a psychiatric social worker further detailed the services A.C. had received. In 2018, he had completed therapeutic counseling administered by the Department of Mental Health. He also received counseling services from L.A. Guidance, Starview, Glenn Rockey, and Foothill Family. In 2018, L.A. Guidance diagnosed A.C. with dysthymic disorder. That same year, Starview diagnosed him with major depressive disorder. He had also been diagnosed with an unspecified depressive disorder by the Department of Mental Health. He completed a 10-week substance abuse treatment program and a 14-week dialectic behavioral therapy program in 2019.

The contested disposition hearing was held on February 19, 2020. The court took judicial notice of all the records, reports, and minute orders, including the probation report, Dr. Rome’s report, and the social worker’s assessment. Counsel agreed that the testimony of the probation officer was not required, and that the court could rely on the probation report.

A.C.’s counsel requested a camp placement, reasoning that gang intervention services were not available at DJJ. The prosecutor argued that A.C.’s previous camp placement was not effective at rehabilitating him, as he committed the attempted murder a month after he was released from that placement.

The court noted that it had been overseeing A.C.’s case for some time, and that he continued to get more gang tattoos and

became more involved in the “drug lifestyle.” The court committed him to the DJJ for a maximum term of confinement of 25 years to life. The court explained that if A.C. did well, he could be released on parole within a few years, and that he could avail himself of job training, education, and counseling there. The court was optimistic that A.C. could reach his potential if he took advantage of the programs available at DJJ. The court also imposed various probation conditions, including that he read a self-help book. A.C. timely appealed.

DISCUSSION

1. DJJ Commitment

“We review a commitment decision . . . for abuse of discretion, and indulge all reasonable inferences to support the decision of the juvenile court.” (*In re Asean D.* (1993) 14 Cal.App.4th 467, 473.)

“A DJJ commitment is not an abuse of discretion where the evidence demonstrates a probable benefit to the minor from the commitment and less restrictive alternatives would be ineffective or inappropriate.” (*In re M.S.* (2009) 174 Cal.App.4th 1241, 1250.)

When making a placement decision, the juvenile court focuses on the best interest of the minor, and the need to protect the public. (*In re Jimmy P.* (1996) 50 Cal.App.4th 1679, 1684.) There must be sufficient evidence demonstrating probable benefit to the minor and the ineffectiveness of less restrictive alternatives. (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1396.) At the disposition hearing, the court considers the probation officer’s report and any other relevant evidence that may be offered. (*In re Jimmy P.*, at p. 1684.)

In making its dispositional order, the court “shall consider . . . (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor’s previous delinquent history.” (Welf. & Inst. Code, § 725.5.) Moreover, before committing a ward to the DJJ, the court must be satisfied that it is

“ ‘probable that [the ward] will be benefited by the reformatory educational discipline or other treatment provided by the [DJJ].’ ” (*In re Jimmy P.*, *supra*, 50 Cal.App.4th at p. 1684.) There is no requirement that the court find exactly how a minor will benefit from being committed to DJJ. The court is only required to find if it is probable a minor will benefit from being committed.” (*In re Jonathan T.* (2008) 166 Cal.App.4th 474, 486.)

Here, there was ample evidence supporting the juvenile court’s finding that A.C. would benefit from confinement in the DJJ, which we summarized above.

A.C. relies on *In re Carlos J.* (2018) 22 Cal.App.5th 1 to argue there was insufficient evidence to demonstrate any probable benefit from DJJ commitment, arguing there was no evidence of the specific programs available to A.C. in the DJJ. In *In re Carlos J.*, the appellate court reversed the juvenile court’s DJJ commitment because no witnesses testified at the dispositional hearing, and the probation report contained no discussion of the programs available at DJJ that would meet the ward’s needs. (*Id.* at pp. 7–8.) The court explained “it is reasonable and appropriate to expect the probation department, in its report or testimony, to identify those programs at the DJ[J] likely to be of benefit to the minor under consideration.” (*Id.* at p. 12.) The court acknowledged that in meeting this obligation, probation reports may contain boilerplate language about the DJJ’s programs. (*Ibid.*)

The ward in *In re Carlos J.* did not have a substantial criminal record, had not previously been placed in camp confinement, and had not received the extensive services already provided to A.C. (*In re Carlos J.*, *supra*, 22 Cal.App.5th at p. 11.) Therefore, it was unclear from the record how the ward would benefit from DJJ, rather than some less restrictive confinement.

Here, A.C. committed a particularly heinous and violent crime and failed to benefit from his previous camp placement or the extensive services he had already received. It was reasonable to conclude the structure provided by DJJ would benefit him, and protect the public.

For this same reason, we find ample evidence supports the trial court's conclusion that less restrictive alternatives would be ineffective. (*In re M.S.*, *supra*, 174 Cal.App.4th at p. 1250.)

Therefore, the juvenile court did not abuse its discretion when it committed A.C. to the DJJ.

2. Probation Conditions

A.C. argues the probation conditions must be stricken because he was committed to the DJJ. Respondent concedes the error. A “juvenile court loses the authority to impose conditions of probation once it commits a ward to DJ[J].” (*In re Edward C.* (2014) 223 Cal.App.4th 813, 829.) Accordingly, we strike the probation conditions. (*Id.* at pp. 829–830 [striking probation conditions].)

DISPOSITION

The probation conditions imposed by the court in its dispositional order are stricken. In all other respects, the order is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

WILEY, J.